



location to be designated in advance of the deposition.” ECF # 735.

On June 7, 2019, Sapphire served Plaintiff with an amended notice to appear for his own deposition. The amended notice was identical to the original except that the amended notice clarified that the location would be in Courtroom 3 at the District Court of the Virgin Islands, St. Thomas Division, Ron deLugo Federal Building, 5500 Veterans Drive, St. Thomas, VI 00802. ECF # 814.

On June 10, 2019, at 9:30 a.m., undersigned counsel for Sapphire; counsel for the Cordero defendants, and Claudia Woldow, *pro se*; and the stenographer appeared for Plaintiff’s deposition. Exhibit 1 (transcript).

At 10:00 a.m., counsel for the Cordero defendants sent email to Plaintiff advising him the attending parties were present and that they would wait until 10:30 a.m. (one hour after the scheduled start) before adjourning, in hopes that he would appear. Exhibit 2 (Rich email).

By 10:30 a.m., Plaintiff had failed to appear and the attending parties adjourned. Exhibit 1. No rule or protective order excused Plaintiff from appearing for his deposition.

### **Sapphire conferred with Plaintiff regarding his deposition**

Plaintiff refuses to communicate with undersigned counsel. Sapphire’s co-counsel Andrew Simpson communicated repeatedly with Plaintiff in attempts to ensure that Plaintiff appeared for his properly noticed deposition. *See, generally*, Exhibit 3, which contains a sampling of the email exchanges between Simpson and Plaintiff. To the extent that it may be required, undersigned counsel and Simpson certify to the Court that they have tried in good faith to secure Plaintiff’s attendance at his own deposition without resorting to this motion.

### **Conclusion - Relief Sought**

Based upon the foregoing, it appears that the only thing that will make Plaintiff appear for his own deposition is an order of this Court directing him to appear and stating the possible consequences of not appearing. Accordingly, Sapphire prays for such an order in the form submitted herewith.

In this case, the undersigned charges \$275 per hour. Undersigned wasted several hours preparing for Plaintiff's deposition, traveling to the deposition, waiting one hour for Plaintiff to appear, and traveling from the deposition. However, as a sanction for his failure to appear, Sapphire asks only that it be reimbursed in the amount of \$275 for the one hour the undersigned waited in the courtroom for Plaintiff to appear. Sapphire also paid \$124 to the stenographer for her appearance fee and a transcript of its attempt to depose Plaintiff. Exhibit 4. Accordingly, Sapphire prays that this Court will also order Plaintiff to reimburse it in the total amount of \$399.

**DUENSING & CASNER**

June 17, 2019

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**CERTIFICATE OF SERVICE**

I certify that on June 17, 2019, the foregoing document was filed with this Court via its ECF system, which will send a notice of filing to all parties who have appeared in this action as listed below:

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